

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Marcus Coyle,

Plaintiff,

v.

Messerli & Kramer P.A.,

Defendant.

**SUMMONS**

Court File No. \_\_\_\_\_

**THIS SUMMONS IS DIRECTED TO THE ABOVE-NAMED DEFENDANT(S)**

1. **YOU ARE BEING SUED.** The Plaintiff has started a lawsuit against you. The Plaintiff's Complaint against you is attached to this summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no court file number on this summons.
2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.**  
You must give or mail to the person who signed this summons a written response called an Answer within 21 days of the date on which you received this Summons.  
You must send a copy of your Answer to the person who signed this summons located at:  
  
WALKER & WALKER LAW OFFICES, PLLC  
ATTN: Kimberly Zillig  
4356 Nicollet Avenue South  
Minneapolis, MN 55409
3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiff's Complaint. In your Answer you must state whether you

agree or disagree with each paragraph of the Complaint. If you believe the Plaintiff should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiff everything asked for in the complaint. If you do not want to contest the claims stated in the complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the complaint.
5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.
6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

Date: December 14, 2020

/s/ Kimberly Zillig  
Kimberly Zillig (#278129)  
Walker & Walker Law Offices, PLLC  
4356 Nicollet Avenue South  
Minneapolis, MN 55409  
(612) 824-4357  
kim@bankruptcytruth.com  
*Attorneys for Marcus Coyle*

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

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Marcus Coyle,

Plaintiff,

**COMPLAINT**

v.

Court File No. \_\_\_\_\_

Messerli & Kramer P.A.,

Defendant.

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1. Plaintiff Marcus Coyle ("Coyle") initiates this action based on the violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 *et seq.*, by Messerli & Kramer P.A. ("Debt Collector").
2. In the process of initiating a lawsuit against Coyle in the wrong county, Debt Collector disclosed information about Coyle's debt to the mother of his child. Both acts are prohibited by the FDCPA.

**PARTIES, JURY TRIAL, AND VENUE**

3. Coyle is a natural person residing in Hennepin County and is a "consumer" as defined by the FDCPA. 15 U.S.C. § 1692a(3).
4. Debt Collector is a Minnesota business corporation with a registered address of 100 South 5th Street, 1400 Fifth Street Towers, Minneapolis, Minnesota 55402. Debt Collector's principal business and purpose is the collection of debts, making it a "debt collector" as defined by the FDCPA. 15 U.S.C. § 1692a(6).
5. Coyle demands a trial by jury to the extent available under US Const. Amend. 7; Minn. R. Civ. P. 38.01.

6. Venue is proper because Debt Collector's registered Minnesota address is located in Hennepin County.

#### **FACTS**

7. Coyle opened a credit card with Bank of America, N.A., while residing in Scott County.
8. Coyle incurred a debt to Bank of America, N.A.
9. Due to a series of issues, Coyle was unable to repay his debt to Bank of America, N.A.
10. Debt Collector was hired to collect Coyle's debt to Bank of America, N.A. from Coyle.
11. On October 1, 2020, Debt Collector's process server personally served a collection lawsuit for Coyle's debt on the mother of Coyle's child, Ms. Welshinger ("Welshinger"), at her residence in Wright County, having an address of 903 Ridge Dr SE, Saint Michael, MN 55376. *See, Affidavit of Service, EXHIBIT A.*
12. Coyle does not now live with Welshinger, nor had he at any time in the years during which he opened and used the Bank of America, N.A. debt.
13. In fact, Coyle has not ever lived with Welshinger at the address where she was served.

#### **COUNT I: PROHIBITED CONTACT WITH THIRD PARTY**

14. Coyle incorporates all other allegations as if set forth herein in full.
15. The FDCPA prohibits collectors from contacting third parties regarding a consumer's debt:

"[W]ithout the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or



as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than a consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.” 15 U.S.C. § 1692c(b).

16. Debt Collector violated § 1692c(b) by personally handing Welshinger information regarding Coyle's debt.
17. Debt Collector's actions humiliated Coyle in the eyes of his family and others.
18. Debt Collector has made Welshinger now aware of Coyle's private financial troubles.
19. This violation has caused Coyle to suffer emotional distress, including frustration, confusion, and helplessness.
20. Coyle has been forced to hire legal counsel to address Debt Collector's failure to comply with the FDCPA.

## **COUNT II: SUING CONSUMER IN FOREIGN VENUE**

21. Coyle incorporates all other allegations as if set forth herein in full.
22. The FDCPA requires debt collectors to bring collection lawsuits either in the county where the consumer lives or where the debt was incurred:

“Any debt collector who brings any legal action on a debt against any consumer shall . . . bring such action only in the judicial district or similar legal entity -- (A) in which such consumer signed the contract sued upon; or (B) in which such consumer resides at the commencement of the action.” 15 U.S.C. § 1692(a).

23. Coyle lives in Hennepin County and incurred Debt Collector's debt in Hennepin County.
24. Debt Collector violated § 1692(a) by suing Coyle for this debt in Wright County.
25. The FDCPA provides the following remedies for its breach:

“[A]ny debt collector who fails to comply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of — (1) any actual damage sustained by such person as a result of such failure; (2) . . . such additional damages as the court may allow, but not exceeding \$1,000 . . . [and (3)] the costs of the action, together with a reasonable attorney's fee as determined by the court.” 15 U.S.C. § 1692k(a).

26. Coyle is entitled to actual damages in an amount to be determined at trial, statutory damages of \$1,000.00, the costs of this action, and reasonable attorney's fees from Debt Collector in an amount to be determined by the court under 15 U.S.C. § 1692k.

### **RELIEF REQUESTED**

Stroncek requests an Order for the following relief:

1. Judgment in favor of Marcus Coyle and against Messerli & Kramer P.A. for actual damages in an amount to be determined at trial, \$1,000 in statutory damages, the costs of this action, and a reasonable attorney's fee under 15 U.S.C. § 1692k.
2. Interest accruing from commencement of this action at 4% for awards up to \$50,000.00, or at 10% for awards over \$50,000.00, under Minn. Stat. § 549.09.
3. All other relief the Court deems just and equitable.

Date: December 14, 2020

/s/ Kimberly Zillig  
Kimberly Zillig (#278129)  
Walker & Walker Law Offices, PLLC  
4356 Nicollet Avenue South  
Minneapolis, MN 55409  
(612) 824-4357  
kim@bankruptcytruth.com  
*Attorneys for Marcus Coyle*

Acknowledgement

The plaintiff, by his attorney, acknowledges that sanctions may be imposed under Minn. Stat. § 549.211.

Date: December 14, 2020

/s/ Kimberly Zillig  
Kimberly Zillig (#278129)

EXHIBIT A



\*5727496\*

Bank of America, N.A.

IN THE

vs.

Wright County Tenth Judicial District Court

Marcus Dwane Coyle

Wright COUNTY, MN

AFFIDAVIT OF SERVICE

I, Kim Renee Jimenez, being duly sworn on oath, states that on 09/26/2020 at 12:04 PM I served the attached Summons and Complaint upon Marcus Dwane Coyle, therein named, at the usual abode of 903 RIDGE DR SE, SAINT MICHAEL, MN55376 in the county of WRIGHT, State of Minnesota, by handing to and leaving with Ms Welshinger, Mother of child, a person of suitable age and discretion residing therein, a true and correct copy thereof.

Description of Person Accepting Service:

Sex: Female Race: White Height: 5ft 8in Weight: 190 Hair: Brown

I, Kim Renee Jimenez, declare under penalty of perjury that everything I have stated in this document is true and correct.

Executed in the county of WRIGHT, State of Minnesota  
on October 01, 2020.

Kim Renee Jimenez

EZ MESSENGER  
9210 S. Western Avenue Suite A-3  
Oklahoma City, OK73139  
214-748-4200

Client File #: 19-135529#1702875  
MN - Messerli Kramer

1702875